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19 Dreamstime.com, LLC

20 UNITED STATES DISTRICT COURT
21 NORTHERN DISTRICT OF CALIFORNIA
22 SAN FRANCISCO DIVISION

23 DREAMSTIME.COM, LLC, a Florida LLC,

24 Case No. 3:18-CV-01910-WHA

25 Plaintiff,

26 v.
27 **DECLARATION OF JAIME W.
28 MARQUART IN SUPPORT OF
PLAINTIFF DREAMSTIME.COM,
LLC'S OPPOSITION TO DEFENDANT
GOOGLE'S MOTION FOR SUMMARY
JUDGMENT**

29 GOOGLE, LLC, a Delaware LLC; and DOES
30 1-10,

31 Defendants.

32 Judge: Hon. William H. Alsup

33 Hearing Date: June 18, 2020

34 Time: 8:00 a.m.

1 I, Jaime W. Marquart, declare as follows:

2 1. I am an attorney licensed to practice in the State of California. I am a partner at the
3 Baker Marquart LLP (“Baker Marquart”) law firm, counsel to plaintiff Dreamstime.com, LLC
4 (“Dreamstime”) in this action and co-lead trial counsel in this matter. I make this Declaration in
5 support of Plaintiff Dreamstime.Com, LLC’s Opposition to Defendant Google’s motion for
6 summary judgment in the above captioned matter. I have personal knowledge of the facts set forth
7 herein and if called as a witness I could and would competently testify thereto.

8 **Deposition Testimony**

9 2. Attached hereto as **Exhibit A** is a true and correct copy of excerpts of the deposition
10 transcript of Elena Dobre, dated January 23, 2020.

11 3. Attached hereto as **Exhibit B** is a true and correct copy of excerpts of the deposition
12 transcript of Maria Stroe, dated February 27, 2020.

13 4. Attached hereto as **Exhibit C** is a true and correct copy of excerpts of the deposition
14 transcript of Olga Pavliuk, dated February 4, 2020.

15 5. Attached hereto as **Exhibit D** is a true and correct copy of excerpts of the deposition
16 transcript of Google 30(b)(6) designee Eric Lehman, dated February 7, 2020.

17 6. Attached hereto as **Exhibit E** is a true and correct copy of excerpts of the deposition
18 transcript of Eric Lehman, dated February 7, 2020.

19 7. Attached hereto as **Exhibit F** is a true and correct copy of excerpts of the deposition
20 transcript of John Mueller, dated February 12, 2020.

21 8. Attached hereto as **Exhibit G** is a true and correct copy of excerpts of the deposition
22 transcript of Dale Nil, dated February 4, 2020.

23 9. Attached hereto as **Exhibit H** is a true and correct copy of excerpts of the deposition
24 transcript of Tudor Marian, dated March 6, 2020.

25 10. Attached hereto as **Exhibit I** is a true and correct copy of excerpts of the deposition
26 transcript of Carmen Punga, dated February 11, 2020.

27 11. Attached hereto as **Exhibit J** is a true and correct copy of excerpts of the deposition
28 transcript of Andreea Simulescu, dated January 31, 2020.

1 **Google's Business Records**

2 12. All documents, including those attached as exhibits to the declarations of Serban
 3 Enache, Elena Dobre, Bogdan Jianu and Jessie Stricchiola, bearing Bates numbers in the format
 4 “GOOG-DRMSTM-_____” are properly authenticated business records of defendant Google
 5 LLC that were produced in this litigation. *See* Fed. R. Evid. 803(6) (records “kept in the course of a
 6 regularly conducted business activity” are not hearsay; *see also. MGM Studios Inc. v. Grukster,*
 7 *LTD.*, 454 F. Supp. 2d 966, 972 (C.D. Cal. 2006) (emails of individual employees authenticated
 8 through production by corporate defendant); *In re Homestore.com, Inc. Securities Litigation*, 347 F.
 9 Supp. 2d 769, 781 (C.D. Cal. 769, 781 (C.D. Cal. 2004) (authentication requirement met because
 10 documents in question were produced during discovery and were offered by the party opponent);
 11 *Alexander Dawson, Inc. v. NLRB*, 586 F.2d 1300, 1302 (9th Cir. 1978) (per curiam) (“The content
 12 of a document, when considered with the circumstances surrounding its discovery, is an adequate
 13 basis for a ruling admitting it into evidence.”).

14 13. Attached hereto as **Exhibit K** is a true and correct copy of a document titled “Re:
 15 Dreamstime Email,” Bates-numbers GOOG-DRMSTM-0007900-01, and which was marked as
 16 Exhibit 63 during the deposition of Josh Capiloutu conducted on January 16, 2020.

17 14. Attached hereto as **Exhibit L** is a true and correct copy of a document titled “Re:
 18 Adwords Industry,” Bates-numbers GOOG-DRMSTM-0007997-8008, and which was marked as
 19 Exhibit 64 during the deposition of Josh Capiloutu conducted on January 16, 2020.

20 15. Attached hereto as **Exhibit M** is a true and correct copy of a document titled “Re:
 21 Dreamstime Email,” Bates-numbers GOOG-DRMSTM-00013579-86, and which was marked as
 22 Exhibit 65 during the deposition of Josh Capiloutu conducted on January 16, 2020.

23 16. Attached hereto as **Exhibit N** is a true and correct copy of a document titled “Re:
 24 Dreamstime issue html5 ads,” Bates numbers GOOG-DRMSTM-00009067-78, and which was
 25 marked as Exhibit 206 during the deposition of Andreea Simulescu conducted on January 31, 2020.

26 17. Attached hereto as **Exhibit O** is a true and correct copy of a document titled “Re:
 27 Dreamstime Day in DUB – maybe in Q1,” Bates-numbers GOOG-DRMSTM-00007654-56, and
 28

1 which was marked as Exhibit 245 during the deposition of Olga Pavliuk conducted on February 4,
2 2020.

3 18. Attached hereto as **Exhibit P** is a true and correct copy of a document titled “Re:,”
4 Bates-numbers GOOG-DRMSTM-0007630-35, and which was marked as Exhibit 258 during the
5 deposition of Josko Mrndze conducted on February 6, 2020.

6 19. Attached hereto as **Exhibit Q** is a true and correct copy of a document titled “Re:,”
7 Bates-numbers GOOG-DRMSTM-0007636-41, and which was marked as Exhibit 259 during the
8 deposition of Josko Mrndze conducted on February 6, 2020.

9 20. Attached hereto as **Exhibit R** is a true and correct copy of a document titled “Re:
10 Dreamstime,” Bates-numbers GOOG-DRMSTM-0007713-14, and which was marked as Exhibit
11 267 during the deposition of Elisabetta Moraru conducted on February 7, 2020.

12 21. Attached hereto as **Exhibit S** is a true and correct copy of a document titled
13 “dreamstime,” Bates-numbers GOOG-DRMSTM-00007845, and which was marked as Exhibit 269
14 during the deposition of Elisabetta Moraru conducted on February 7, 2020. This exhibit has been
15 modified to include the certified English translation of the originally produced Romanian document.

16 22. Attached hereto as **Exhibit T** is a true and correct copy of a document titled “Re
17 Dreamstime,” Bates-numbers GOOG-DRMSTM-7824-7832.

18 23. Attached hereto as **Exhibit U** is a true and correct copy of a document titled “on
19 Dreamstime,” Bates-numbers GOOG-DRMSTM-00010111-12, and which was marked as Exhibit
20 282 during the deposition of Carmen Punga conducted on February 11, 2020.

21 24. Attached hereto as **Exhibit V** is a true and correct copy of a document titled “Re: my
22 today’s,” Bates-numbers GOOG-DRMSTM-00011995, and which was marked as Exhibit 288
23 during the deposition of Carmen Punga conducted on February 11, 2020. This exhibit has been
24 modified to include the certified English translation of the originally produced Romanian document.

25 25. Attached hereto as **Exhibit W** is a true and correct copy of a document titled “Re:
26 [3-272000009002] Task 1151842 Dreamstime: [Other] Can’t Find My Category – Technical
27 Issues Only,” Bates-numbers GOOG-DRMSTM-00001661-65, and which was marked as Exhibit
28 319 during the deposition of Tudor Marian conducted on March 6, 2020.

1 26. Attached hereto as **Exhibit X** is a true and correct copy of a document titled “[7-
 2 8739000019866] Task 2254314 Search Serving, Performance/CPC/Traffic Fluctuations – 2017-10-
 3 20 06:35:17, Bates numbers GOOG-DRMSTM-00003779-80, and which was marked as Exhibit
 4 212 during the deposition of Andreea Simulescu conducted on January 31, 2020.

5 **Dreamstime Business Records**

6 27. All documents, including those attached as exhibits to the declarations of Serban
 7 Enache, Elena Dobre, Bogdan Jianu and Jessie Stricchiola, bearing Bates numbers in the format “P-
 8 _____” are business records of plaintiff Dreamstime that were produced in this litigation. *See*
 9 Fed. R. Evid. 803(6) (records “kept in the course of a regularly conducted business activity” are not
 10 hearsay.

11 28. Attached hereto as **Exhibit Y** is a true and correct copy of a document titled “Re:
 12 budget,” Bates-numbers P_0161862-63, and which was marked as Exhibit 307 during the
 13 deposition of Tudor Marian conducted on March 6, 2020. This exhibit has been modified to include
 14 the certified English translation of the originally produced Romanian document.

15 29. Attached hereto as **Exhibit Z** is a true and correct copy of a document titled “Re:
 16 CO,” Bates-numbers P_0161864-65, and which was marked as Exhibit 308 during the deposition of
 17 Tudor Marian conducted on March 6, 2020. This exhibit has been modified to include the certified
 18 English translation of the originally produced Romanian document.

19 30. Attached hereto as **Exhibit AA** is a true and correct copy of a document titled “Re:
 20 bids,” Bates-numbers P_0023495-98, and which was marked as Exhibit 314 during the deposition
 21 of Tudor Marian conducted on March 6, 2020. This exhibit has been modified to include the
 22 certified English translation of the originally produced Romanian document.

23 31. Attached hereto as **Exhibit BB** is a true and correct copy of a document titled “Re:
 24 Follow-up DSK Campaign Analysis,” Bates-numbers P_000955-61, and which was marked as
 25 Exhibit 241 during the deposition of Olga Pavliuk conducted on February 4, 2020.

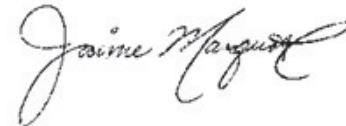
26 32. Attached hereto as **Exhibit CC** is a true and correct copy of a presentation titled
 27 “SEO ‘Quick & Dirty’ Check”, Bates-numbers P_0015474-82, and which was marked as Exhibit
 28 163 during the deposition of Clif Haley conducted on January 24, 2020.

1 33. Attached hereto as **Exhibit DD** is a true and correct copy of a document titled
2 “analiza SEO,” Bates-numbers P_0015472-73, and which was marked as Exhibit 262 during the
3 deposition of Josko Mrndze conducted on February 6, 2020. This exhibit has been modified to
4 include the certified English translation of the originally produced Romanian document.

5 **Other Documents**

6 34. Attached hereto as **Exhibit EE** is a true and correct copy of excerpts of the hearing
7 transcript from the hearing held in this action on November 27, 2019.

8
9 I declare under penalty of perjury under the laws of the United States of America and the State
10 of California that the foregoing information is true and correct. Executed on May 15, 2020, at Los
11 Angeles, California.



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15 Jaime W. Marquart
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